

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

James John Todd Kincannon,)	C/A No.: 3:17-669-MGL-SVH
)	
Plaintiff,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Doctors Care, P.A.,)	
)	
Defendant.)	
)	

James John Todd Kincannon (“Plaintiff”), proceeding pro se and in forma pauperis, filed this amended complaint alleging federal statutory and state law claims. [ECF No. 1-1]. Pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Civ. Rule 73.02(B)(2)(e) (D.S.C.), the undersigned is authorized to review such complaints for relief and submit findings and recommendations to the district judge. For the reasons that follow, the undersigned recommends that the district judge dismiss the amended complaint without prejudice and without issuance and service of process.

On March 17, 2017, the court ordered Plaintiff to bring this case into proper form for service and specifically directed Plaintiff to set forth his true name in the caption of the complaint and other pleadings and to provide the service documents necessary to advance his case. [ECF No. 5].¹ Plaintiff was warned that the failure to provide the necessary information may subject the case to dismissal. *Id.* Plaintiff partially responded to the court’s order, but did not provide proper service documents. [ECF Nos. 12–15].

¹ Plaintiff initially filed his complaint under the pseudonym John Doe. See ECF No. 1.

The court filed a second order on April 19, 2017, ordering Plaintiff to fully complete and sign a Form USM-285 for each defendant named in his case. [ECF No. 19]. Plaintiff was again warned that the failure to provide the necessary information may subject the case to dismissal. *Id.* The time for response expired on May 11, 2017, and Plaintiff has not filed a response.

It is well-established that a district court has authority to dismiss a case for failure to prosecute. “The authority of a court to dismiss sua sponte for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630–31 (1962). In addition to its inherent authority, this court may also sua sponte dismiss a case for lack of prosecution under Fed. R. Civ. P. 41(b). *Id.* at 630. Based on Plaintiff’s failure to fully comply with the court’s March 17, 2017 order or respond to the court’s April 19, 2017 order, the undersigned concludes Plaintiff does not intend to pursue the above-captioned matter. Accordingly, the undersigned recommends that this case be dismissed without prejudice for failure to prosecute.

IT IS SO RECOMMENDED.



May 16, 2017
Columbia, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).